

Message Text

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PAGE 01 MEXICO 01131 201656Z
ACTION H-02

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TO SECSTATE WASHDC 7720

UNCLAS MEXICO 01131

E. O. 11652: N/A
TAGS: (TOMASIK, THEODORE)
SUBJECT: THEODORE TOMASIK

REF: DEPARTMENT'S OM DATED DECEMBER 22, 1977.

H PASS THE HONORABLE JACOB K. JAVITS, UNITED STATES
SENATE, WASHINGTON, D. C. 20510, FROM VERNON D. MCANINCH,
CONSUL GENERAL.

ASSISTANT SECRETARY DOUGLAS J. BENNET, JR., HAS ASKED ME
TO REPLY FURTHER TO YOUR COMMUNICATION OF DECEMBER 7,
1977, ON BEHALF OF YOUR CONSTITUENT, MR. THEODORE
TOMASIK, 91 SMITH DRIVE, LACKAWANNA, NEW YORK 14218. MR.
TOMASIK AND HIS WIFE WERE THE VICTIMS OF AN ACCIDENT AT
ACAPULCO IN NOVEMBER 1976.

JUST BEFORE YOUR COMMUNICATION WAS RECEIVED AT THE
EMBASSY, WE RECEIVED A LETTER DIRECTLY FROM MR. TOMASIK.
IN OUR REPLY, WE OUTLINED THE PROCEDURE FOR MAKING A
CLAIM FOR DAMAGES, SUGGESTED THAT HE WOULD PROBABLY NEED
THE SERVICES OF AN ATTORNEY AND PROVIDED HIM WITH A LIST
OF ATTORNEYS PRACTICING HERE. MR. TOMASIK'S LETTER TO
THE EMBASSY DID NOT MAKE CLEAR THAT HE HAD ALREADY
ATTEMPTED TO SECURE THE SERVICES OF AN ATTORNEY, BUT
WITHOUT SUCCESS. THAT IS, UNFORTUNATELY, A STRONG
INDICATION THAT THE ATTORNEYS HE CONSULTED BELIEVE EITHER
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THAT HE HAS LITTLE OR NO CHANCE OF WINNING A SUIT, OR
THAT IF HE SHOULD WIN, THE AMOUNT HE MIGHT COLLECT WOULD
BE VERY SMALL.

WE HAVE COMMUNICATED DIRECTLY WITH THE POLICE AT ACAPULCO,
WHO ADVISED THAT THEY HAD NEVER BEEN ABLE TO LOCATE THE
VEHICLE INVOLVED IN THE ACCIDENT OR TO IDENTIFY ITS

DRIVER, AND THAT OFFICIALS OF THE 27TH MILITARY ZONE, TO WHICH THE VEHICLE ALLEGEDLY BELONGED, HAVE DENIED OWNERSHIP. IN THESE CIRCUMSTANCES, I AM AFRAID THAT I CAN UNDERSTAND WHY THE ATTORNEYS WHOM MR. TOMASIK CONSULTED ARE NOT ANXIOUS TO TAKE THE CASE. IT APPEARS THAT A GREAT DEAL OF EXPENSIVE INVESTIGATION MIGHT BE NECESSARY EVEN TO DETERMINE AGAINST WHOM A CLAIM FOR DAMAGES COULD BE MADE.

YOU WILL UNDERSTAND THAT THE EMBASSY ITSELF HAS NEITHER THE AUTHORITY NOR THE FUNDS TO MAKE THE KIND OF INVESTIGATION WHICH WOULD BE REQUIRED IN THIS CASE. IT APPEARS THAT IF MR. TOMASIK IS UNSUCCESSFUL IN FINDING AN ATTORNEY TO PURSUE THE CASE FOR HIM, HE MAY HAVE TO FOLLOW THEIR UNSPOKEN ADVICE THAT HE HAS LITTLE CHANCE OF SECURING ANY SATISFACTION.

I AM VERY SORRY NOT TO BE ABLE TO BE MORE HELPFUL IN THIS MATTER. LUCEY

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